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Letter dated 4 January 2012 from the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan, which covers the Committee's activities during the period from 1 January to 31 December 2011. The report is submitted in accordance with the note by the President of the Security Council of 29 March 1995 (S/1995/234).

(*Signed*) Néstor **Osorio**
Chairman
Security Council Committee established pursuant
to resolution 1591 (2005) concerning the Sudan

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Report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

I. Introduction

1. The present report of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan covers the period from 1 January to 31 December 2011.

2. During the reporting period, the Bureau consisted of Néstor Osorio (Colombia) as Chairman, with the delegations of Bosnia and Herzegovina and India providing the Vice-Chairmen. In 2011, the Committee held five informal consultations. The web page of the Committee is available at www.un.org/sc/committees/1591/.

II. Background information and activities of the Committee

A. Background information

3. By its resolution 1556 (2004), the Security Council imposed an arms embargo on all non-governmental entities and individuals, including the Janjaweed, operating in the states of Northern Darfur, Southern Darfur and Western Darfur in the Sudan.

4. By its resolution 1591 (2005), the Security Council broadened the scope of the arms embargo, with immediate effect, to include all the parties to the N'Djamena Ceasefire Agreement and any other belligerents in the states of Northern Darfur, Southern Darfur and Western Darfur. By the same resolution, the Council established a Committee to monitor the implementation of the arms embargo and the two additional measures imposed by the resolution, namely, a travel ban and an assets freeze on those individuals designated by the Committee on the basis of the criteria contained in the resolution. The travel ban and the assets freeze entered into effect on 29 April 2005.

5. By its resolution 1591 (2005), the Security Council also established, for a period of six months, a four-member Panel of Experts to assist the Committee in monitoring the implementation of the arms embargo, travel ban and assets freeze, to report to the Council through the Committee with its findings and recommendations, and to coordinate its activities, as appropriate, with ongoing operations of the African Union Mission in the Sudan (AMIS). Under the same resolution, the Panel of Experts was also identified as a source of information regarding individuals who might be designated by the Committee as subject to the targeted sanctions.

6. By its resolution 1945 (2010), the Security Council strengthened the enforcement of the arms embargo by clarifying the exceptions to that measure and by making the sale or supply of arms and related materiel to the Sudan not prohibited by the embargo contingent upon the necessary end-user documentation. The Council also expressed its intention, following the midterm report of the Panel of Experts that it requested no later than 31 March 2011, to review the state of implementation, including obstacles to full and effective implementation, of the measures imposed in resolution 1591 (2005), with a view to ensuring full compliance.

7. The mandate of the Panel of Experts has been extended eight times, by Security Council resolutions 1651 (2005), 1665 (2006), 1713 (2006), 1779 (2007), 1841 (2008), 1891 (2009), 1945 (2010) and 1982 (2011). The current extension expires on 19 February 2012. In resolution 1713 (2006), the Council authorized the addition of a fifth expert to enable the Panel to better carry out its mission. In its resolutions 1779 (2007), 1841 (2008), 1891 (2009) and 1945 (2010), the Council requested the Panel to coordinate its activities, as appropriate, with the operations of the African Union-United Nations Hybrid Operation in Darfur (UNAMID), which succeeded AMIS, and with international efforts to promote the political process in Darfur. In the same resolutions, the Council requested the Panel to assess in its interim and final reports progress towards reducing violations by all parties to the arms embargo, the travel ban and the assets freeze; progress towards removing impediments to the political process and threats to stability in Darfur and the region; and progress towards reducing other violations of resolutions 1556 (2004) and 1591 (2005). In that context, the Council, in its resolution 1945 (2010), also referred to violations of international humanitarian or human rights law or other atrocities, including sexual and gender-based violence. Following each extension, the Secretary-General has appointed individuals to serve on the Panel.[1]

8. In the course of its mandate and in accordance with the relevant Security Council resolutions, the Panel of Experts submitted 11 written interim/progress reports, dated 7 October 2005, 15 July 2006, 16 March 2007, 2 July 2007, 27 March 2008, 11 August 2008, 2 March 2009, 25 May 2009, 15 March 2010, 24 May 2010 and 30 March 2011; and four midterm reports, dated 14 May 2008, 30 April 2009, 2 July 2010 and 24 June 2011. The Panel also submitted, at the end of each mandate, seven final reports to the Committee, which were subsequently transmitted by the Chairman to the President of the Council. The Panel's mandate under resolution 1945 (2010) was extended for a further four months by resolution 1982 (2011); its final report is due on 19 January 2012.

9. By its resolution 1672 (2006), the Security Council designated four individuals as subject to the travel ban and assets freeze imposed by resolution 1591 (2005).

10. By its resolution 1679 (2006), the Security Council expressed its intention to consider taking, including in response to a request by the African Union, strong and effective measures, such as a travel ban and assets freeze, against any individual or group that violated or attempted to block the implementation of the Darfur Peace Agreement.

11. By its resolution 1769 (2007), the Security Council decided that UNAMID would monitor whether any arms or related materiel were present in Darfur in violation of the Agreements and the measures imposed by paragraphs 7 and 8 of resolution 1556 (2004). The mandate of UNAMID relating to the monitoring of the arms embargo was also explicitly referred to in resolutions 1935 (2010) and 2003 (2011). In that context, the Council, in its resolution 2003 (2011), also requested UNAMID to continue to cooperate with the Panel of Experts in order to facilitate the Panel's work.

[1] See S/2005/428, S/2006/23, S/2006/99, S/2006/301, S/2006/926, S/2007/706, S/2008/743, S/2009/639, S/2010/140, S/2011/27, S/2011/60, S/2011/96, S/2011/613, S/2011/614 and S/2011/658.

12. By a presidential statement dated 24 October 2007 (S/PRST/2007/41), the Security Council called upon all parties to attend and to engage fully and constructively in the talks in Sirte, Libyan Arab Jamahiriya, and, as a first step, to urgently agree and implement a cessation of hostilities to be overseen by the United Nations and the African Union. The Council underlined its willingness to take action against any party that sought to undermine the peace process, including by failing to respect such a cessation of hostilities or by impeding the talks, peacekeeping or humanitarian aid.

13. By a presidential statement of 11 January 2008 (S/PRST/2008/1), the Security Council expressed its readiness to take action against any party that impeded the peace process, humanitarian aid or the deployment of UNAMID. The Council also recognized that due process had to take its course.

14. By a presidential statement of 16 July 2008 (S/PRST/2008/27), the Security Council underlined its determination to take action against those responsible for the attack on 8 July 2008 on a UNAMID military and police convoy, after hearing the outcome of the UNAMID investigation into the attack.

15. By its resolution 1828 (2008), the Security Council reiterated its readiness to take action against any party that impeded the peace process, humanitarian assistance or the deployment of UNAMID and recognized that due process had to take its course.

16. By a presidential statement of 16 November 2010 (S/PRST/2010/24), the Security Council expressed its willingness to consider measures against any party whose actions undermined peace in Darfur. This was reiterated in a presidential statement of 16 December 2010 (S/PRST/2010/28).

B. Summary of the activities of the Committee in 2011

17. Pursuant to paragraph 6 of Security Council resolution 1945 (2010), in which the Council encouraged all States, in particular those in the region, to report to the Committee on the actions they had taken to implement measures imposed by resolutions 1591 (2005) and 1556 (2004), including the imposition of targeted measures, the Committee has to date received three reports from Member States. The reports are available on the Committee's web page.

18. On 28 January, the Committee received a proposal for the designation of an individual as subject to the travel ban and assets freeze. The proposal was subsequently placed on technical hold by a member of the Committee. The hold is still in effect.

19. In informal consultations on 23 February, the Committee met four of the five members of the Panel of Experts appointed pursuant to resolution 1945 (2010) and discussed the Panel's reporting timelines. Members of the Committee highlighted the areas on which they believed the Panel should focus. They commended the establishment of an arms embargo monitoring focal point within UNAMID and looked forward to hearing from the Panel on how the mechanism had helped to enhance information-sharing with the Mission.

20. In informal consultations on 11 April, the Committee heard a presentation by the Panel of Experts through videoconference from Addis Ababa of its interim

report. At the time, since no member of the Panel had been granted a visa to the Sudan, the Panel's presentation focused mainly on how the delay in access to the Sudan was affecting the Panel's work. In addition to seeking the Committee's assistance in obtaining visas, the Panel also requested the Security Council to consider extending the Panel's mandate for at least three additional months to allow for sufficient fieldwork in the Sudan. Subsequently, all five Panel members were granted visas to the Sudan as of 15 April. Moreover, by its resolution 1982 (2011), the Council extended the Panel's mandate until 19 February 2012.

21. In informal consultations on 28 June, the Committee heard a midterm briefing by the Panel of Experts. Overall, the Panel had spent nearly seven weeks in the Sudan since its arrival there on 2 May. The Panel determined that some of the ammunition cartridges observed during its field visits appeared to have been manufactured after the imposition of the sanctions, thereby indicating prima facie cases of violations of the arms embargo. The Panel reported that the Government of the Sudan had not implemented the assets freeze in relation to the four designated individuals. Additional investigations related to the various areas of the Panel's mandate were ongoing. Also, the Panel provided a preliminary assessment of what it considered to be impediments to the peace and political processes in relation to Darfur. In the written report accompanying its midterm briefing, the Panel indicated that it had not reached a consensus on some parts of the report owing to a disagreement on the appropriate application of methodological requirements.

22. By a letter dated 14 July, the Committee invited the former Joint African Union-United Nations Chief Mediator for Darfur, Djibril Yipènè Bassolé, to provide to the Committee his insights into impediments to the peace process.

23. In informal consultations on 22 July, in continuation of its dialogue with UNAMID, the Committee met with the African Union-United Nations Joint Special Representative for Darfur, Ibrahim Gambari. Mr. Gambari briefed the Committee on the logistical support provided by UNAMID to the Panel, the conduct of patrols, and the limited instances of disarmament, demobilization and reintegration due to the lack of an all-inclusive peace agreement. He stressed the importance of providing adequate resources and expertise to UNAMID in order to enhance its arms embargo monitoring capacity. Three members of the Panel of Experts, who participated in the consultations through videoconference from Addis Ababa, outlined some areas in which they believed the Panel and UNAMID could benefit from mutual assistance.

24. Through an exchange of letters dated 4 and 22 August, respectively, a Member State sought, and the Committee provided, guidance on the scope of the arms embargo.

25. In a letter dated 9 August addressed to the Committee, the Panel of Experts reported that, for the Panel's second trip to the Sudan, the Panel members were granted visas relatively quickly but then remained grounded in Khartoum owing to the lack of permits to enter Darfur. Shortly afterward, the Panel notified the Committee and sought its assistance, but it was almost a month after Panel members arrived in Khartoum that the permits were issued.

26. In his reply dated 17 October, the Chairman of the Committee informed the President of the Security Council of the ongoing follow-up in response to a request for certain source information in relation to the 2008 final report of the Panel of Experts (S/2008/647).

27. In informal consultations on 10 November, by which time the Panel of Experts had undergone a complete change in composition, the Committee met with the newly reconstituted Panel through videoconference from Addis Ababa. Members of the Committee highlighted the areas on which they believed the Panel should focus, both in terms of substance and process. For the Panel's third trip to the Sudan, the Panel members were granted visas on 18 November and permits to enter Darfur on 28 November.

28. During the period under review, in accordance with subparagraph 3 (a) (iv) of resolution 1591 (2005), the Chairman of the Committee delivered four reports, each covering a 90-day period, to the Security Council. In each report, he described the Committee's activities since his last briefing to the Council. He delivered the reports in informal consultations of the whole on 11 March, 20 June, 29 September and 16 December. In the three latest reports, he also reminded the Council of its previously expressed intention, as reflected in resolution 1945 (2010), to review the state of implementation, including obstacles to full and effective implementation, of the measures imposed in resolution 1591 (2005), with a view to ensuring full compliance.

29. In conducting its work, the Committee continued to apply the guidelines it had adopted on 23 March 2006 and amended on 27 December 2007. Among other purposes, the guidelines serve to facilitate the implementation of the travel ban and assets freeze imposed by subparagraphs 3 (d) and (e) of resolution 1591 (2005), in accordance with subparagraph 3 (a) (iii) of the same resolution. In that connection, however, no requests were received by the Committee either to remove the names of individuals on the consolidated list of persons subject to the travel ban and assets freeze or to grant exemptions to the targeted sanctions.

III. Violations and alleged violations of the sanctions regime as reported by the Panel of Experts

30. Owing to the extension of the Panel's mandate by resolution 1982 (2011) of 17 May for a further period of four months — effectively lengthening the current mandate to 16 months — the final report of the Panel of Experts is due no later than 19 January 2012.